



December 7, 1992

MEMORANDUM TO THE COMMITTEE OF COUNSEL

Re: Arizona Board of Pharmacy

As we have previously reported, the Coalition for a Tobacco-Free Arizona filed a petition in October with the Arizona Board of Pharmacy requesting the classification of low "tar" and nicotine cigarettes as drugs. The Board discussed the petition at its regularly scheduled public meeting on November 19, 1992.

The Coalition was represented by a Ms. Kane of the American Heart Association and Jeffrey Walker, an attorney from Lewis and Roca, a prominent Phoenix law firm. Walker stated that he was there as a member of the Coalition, not as its counsel. Ms. Kane stated that Arizona and other states had been targeted by the Coalition. Walker expressed frustration with FDA's failure to respond to petitions. Walker then summarized that the Arizona statutory definition of cigarettes should be interpreted to include low "tar" and nicotine cigarettes.

cc me
Mr. Jacob
A.T.D.

The Board took no formal action. Instead, the Board's President, Mr. Jacob, suggested that the Board's staff determine what the FDA and the other states are doing in response to these petitions. We understand that he had been advised to take this course by Montgomery Lee, the Arizona Assistant Attorney General who acts as counsel for the Board. Jacob and one other Board member also made reference to the

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